

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

RANDAL S. HERR,)	
)	
Petitioner,)	
)	
v.)	CV-07-147-B-W
)	
STATE OF MAINE,)	
)	
Respondent.)	

**ORDER AFFIRMING THE
RECOMMENDED DECISIONS OF THE MAGISTRATE JUDGE**

On July 24, 2002, a Cumberland County jury convicted Randal Horr on all five counts of an indictment charging him with a series of motor vehicle crimes. Mr. Horr is currently serving an eleven-year sentence. He filed a petition under 28 U.S.C. § 2254 on September 26, 2007. *Pet. under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody* (Docket # 1). On August 5, 2008, the state of Maine moved to dismiss his petition.¹ *Resp't's Mot. to Dismiss Pet. for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254* (Docket #23). In addition to a § 2254 petition, Mr. Horr filed a motion for a temporary restraining order in which he seeks injunctive relief for alleged misfeasance by state corrections officials in providing him medical care. *Mot. for Temporary Restraining Order* (Docket # 42). The United States Magistrate Judge filed with the Court on November 4, 2008 her Recommended Decisions on Mr. Horr's petition, Maine's motion to dismiss, and Mr. Horr's motion for temporary restraining order. *Recommended Decision on 28 U.S.C. § 2254 Pet.* (Docket # 43); *Recommended Decision on Mot. for a Temporary Restraining Order* (Docket # 44). Mr. Horr filed his objections to the

¹ This matter was stayed on the Petitioner's request from October 24, 2007 through May 9, 2008, so that Mr. Horr could exhaust his state administrative remedies. *Mot. for Stay of Proceedings* (Docket # 7); *Minute Entry* (Docket # 9); *Order Lifting Stay* (Docket # 19).

Recommended Decisions on December 3, 2008. *Objection to Magistrate Judge Margaret J. Kravchuk's Recommended Decision* (Docket # 50). I have reviewed and considered the Magistrate Judge's Recommended Decisions, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Magistrate Judge's Recommended Decisions; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decisions, and determine that no further proceeding is necessary.

1. It is therefore ORDERED that the Recommended Decisions of the Magistrate Judge (Docket #s 43 and 44) are hereby AFFIRMED.
2. It is further ORDERED that the Petitioner's 28 U.S.C. § 2254 Petition (Docket # 1) be and hereby is DENIED.
3. It is further ORDERED that the Respondent's Motion to Dismiss Petitioner's 28 U.S.C. § 2254 Petition (Docket # 23) be and hereby is GRANTED.
4. It is further ORDERED that the Petitioner's Motion for Temporary Restraining Order (Docket # 42) be and hereby is DENIED.
5. It is further ORDERED that no certificate of appealability should issue in the event the Petitioner files a notice of appeal because there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 6th day of January, 2009